

Morgan Lewis

MEMO ENDORSED

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December 24, 2024

VIA E-MAIL (REZNIKNYSDCHAMBERS@NYSD.USCOURTS.GOV)

The Honorable Victoria Reznik
 The Hon. Charles L. Brieant Jr.
 Federal Building and United States Courthouse
 300 Quarropas St., Courtroom 621
 White Plains, NY 10601-4150

Re: *The Wave Studio, LLC v. Priceline.com LLC*, Case No. 7:15-cv-06995
The Wave Studio, LLC v. Hotels Combined LLC, Case No. 7:15-cv-07950
The Wave Studio, LLC v. Booking Holdings Inc., Case No. 7:21-cv-02691
The Wave Studio, LLC v. Southwest Airlines Co., Case No. 7:22-cv-05141

Proposed Deadline for Defendants' Response to Plaintiff's
 Requests for Discovery Related to Early Motion to Dismiss

Dear Magistrate Judge Reznik:

I write on behalf of the following Defendants in the above-captioned matters: Booking Holdings Inc., Agoda Company Pte. Ltd., AGIP LLC, Booking.com BV, Booking.com (USA) Inc., Rocket Travel, Inc., Momondo A/S, Priceline.com LLC, Hotels Combined LLC, and Southwest Airlines Co. (the "Moving Defendants"). On December 6, 2024, the Moving Defendants submitted to Judge Seibel and served their Motion to Dismiss pursuant to Rule 12(b)(6) based on the statute of limitations and the doctrine of extraterritoriality, per Your Honor's October 31, 2024, Order (ECF 421).

On December 20, 2024, Plaintiff filed a letter improperly requesting expansive discovery, stating such discovery is necessary for it to respond to our Motion to Dismiss.

Your Honor's September 5, 2024, Order states that "Defendants from whom discovery is sought will have an opportunity to respond" before the Court decides "what, if any, discovery may be taken before Plaintiff's oppositions are due." ECF 384, p. 3. Per Your Honor's Order, we plan to object to the requested discovery – in its entirety – on multiple grounds.

Plaintiff seeks extensive information that goes far beyond what it can properly request in response to a Rule 12(b)(6) motion and its requests are not tailored to our Motion to Dismiss, as ordered by Your Honor. *Id.* Plaintiff's sweeping requests are also contrary to Judge Seibel's rulings at the November 29, 2023, Case Management Conference. Judge Seibel rejected Plaintiff's similar requests for discovery to plead its claims, stating that Plaintiff had an obligation to plead its claims based on

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the information available to it, including identification of "on X day, this photo was on your website, and you didn't have permission." ECF 321 at 33:1-11, 34:9-13.

We plan to object to Plaintiff's requests in their entirety and request Your Honor's guidance as to what form and by what date Your Honor would like our submission. We anticipate that Your Honor contemplates a letter brief in response to Plaintiff's requests, but welcome any clarification in that regard. We propose **January 24, 2025**, as the deadline for submission. We anticipate that Your Honor will need a copy of our Motion to Dismiss and propose to submit that to Your Honor at the same time, but defer to Your Honor's guidance.

We thank Your Honor for your consideration of this request.

Respectfully Submitted,



Carla B. Oakley

c: Counsel for Plaintiff
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The Moving Defendants' request is **GRANTED**. Each defendant that made a Rule 12 motion is directed to submit, by no later than **1/24/2025**, a letter motion detailing their opposition to Plaintiff's request for limited discovery.

SO ORDERED.



Hon. Victoria Reznik, U.S.M.J.

Dated: 12/26/2024